

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 965**

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**Introduced by Assembly Member Eduardo Garcia**

February 26, 2015

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An act to *amend Sections 71100, 71101, and 71103 of, and to add Section 71103.6 to, the Public Resources Code, and to amend Section 7048 of, and to add Section ~~79737.5~~ 79717 to, the Water Code, relating to ~~public~~ water resources.*

LEGISLATIVE COUNSEL'S DIGEST

AB 965, as amended, Eduardo Garcia. California and Mexico border: *water* resources improvement.

(1) Existing law establishes the California-Mexico Border Relations Council in state government, and prescribes the membership and functions and duties of the council with respect to coordinating the activities of state agencies, including environmental agencies, that are related to cross-border programs, initiatives, projects, and partnerships that exist within state agencies, and state and local efforts that are of concern between California and Mexico. *Existing law requires the council to develop a strategic plan to guide a project to study, monitor, remediate, and enhance water quality in the New River in Imperial County. Existing law establishes the California Border Environmental and Public Health Protection Fund and makes moneys in the fund available, upon appropriation, to the Secretary for Environmental Protection for grants for specified health and environmental projects and purposes relating to the California-Mexico border region.*

This bill would require the council to establish the New River Water Quality, Public Health, and River Parkway Development Program to

coordinate funding for, and the implementation of, recommendations from ~~a the~~ strategic plan ~~required to be developed by the council and~~ ~~certain the~~ projects identified by the council pursuant to existing law. *The bill would provide that water bond proceeds, as described in (3), may be deposited in the fund to be available, upon appropriation, to the secretary for these purposes.*

(2) Existing law ~~also~~ authorizes the Director of Water Resources to establish a program of flood damage reduction and urban creek restoration known as the Urban Streams Restoration Program. For purposes of the program, urban creek protection, restoration, and enhancement include, but are not limited to, the maintenance of channel capacity, channel stabilization, vegetation management, and adaptive management to meet program objectives.

This bill would also include the reduction of water quality impairments and nonpoint source water pollution, and the establishment of parkways for public use that benefit flood control and water quality among the types of measures that are included in the program.

Existing law requires the Department of Water Resources to coordinate the program with the Department of Fish and Wildlife, as prescribed.

This bill would, *in addition*, require the Department of Water Resources to consult with the council to establish criteria to fund projects that improve conditions for cross-border urban creeks.

(3) Existing law, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, approved by the voters as Proposition 1 at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$7,545,000,000 to finance a water quality, supply, and infrastructure improvement program. ~~The bond act provides that the sum of \$1,495,000,000 is to be available, upon appropriation by the Legislature, for competitive grants for multibenefit ecosystem and watershed protection and restoration projects. The bond act authorizes the use of \$285,000,000 of those funds for watershed restoration projects through a program implemented by the Department of Fish and Wildlife.~~

This bill would require ~~the department to consult with responsible agencies under the bond act to consult with the council in the development of~~ *when developing* any regulations or guidelines for the expenditure of these moneys ~~to establish specified and establishing criteria related to urban creeks and watersheds for watershed restoration projects~~ on the California-Mexico border.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 71100 of the Public Resources Code is  
2     amended to read:

3     71100. The following definitions govern the construction of  
4     this part:

5     ~~(a) “Cal BECC” means the California Border Environmental~~  
6     ~~Cooperation Committee established on July 22, 1994, by the~~  
7     ~~Governors of California, Baja California, and Baja California Sur.~~

8     ~~(b)~~  
9     (a) “California-Baja California border region” means the region  
10    to the north and south of the international border between  
11    California and Baja California described in Chapter IV of the  
12    US-Mexico Border XXI Program, Framework Document,  
13    published October 1996, Article 4 of the La Paz Agreement, signed  
14    August 14, 1983, between the United States and Mexico.

15    (b) “Council” means the California-Mexico Border Relations  
16    Council, established pursuant to Section 99522 of the Government  
17    Code.

18    (c) “Fund” means the California Border Environmental  
19    Education and Public Health Protection Fund established pursuant  
20    to Section 71101.

21    SEC. 2. Section 71101 of the Public Resources Code is  
22    amended to read:

23    71101. (a) The California Border Environmental and Public  
24    Health Protection Fund is hereby established in the State Treasury  
25    to receive funds appropriated in the annual Budget Act, including,  
26    but not limited to, proceeds of bonds sold pursuant to Division  
27    26.7 (commencing with Section 79700) of the Water Code, and  
28    other sources, such as from North American Development Bank,  
29    Border Environment Cooperation Committee, United States  
30    Environmental Protection Agency, and private businesses or  
31    foundations, and any interest accrued on those funds.

32    (b) The money in the fund shall be available, upon appropriation,  
33    to the Secretary of for Environmental Protection, for allocation  
34    for expenditure for the purposes of this part.

(c) The money in the fund shall not be made available for the purpose of bringing a person or a facility into compliance with environmental laws, or to provide funds to remediate environmental damage. The fund, instead, shall assist appropriate responsible agencies in California and Baja California in the implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, including projects related to domestic and industrial wastewater, vehicle and industrial air emissions, hazardous waste transport and disposal, human and ecological risk, and disposal of municipal solid waste.

*SEC. 3. Section 71103 of the Public Resources Code is amended to read:*

71103. (a) The Secretary for Environmental Protection, upon request, shall inform any community-based nonprofit environmental organization, responsible local government, and special district located within the California-Baja California border region that it may request funding pursuant to Section 71102.

(b) The Secretary for Environmental Protection, in consultation with ~~Cal BECC, the council~~, shall award grants to a local governmental entity or special district, community-based nonprofit environmental organization, or postsecondary educational institution based on the severity of the environmental, public health, or natural resource concerns due to cross-border transmission of environmental pollutants or toxics to the city or county in which the entity, organization, or institution is located. First priority for funding shall be given to an entity, organization, or institution located in a city or county in which an environmental, public health, or natural resource threat exists and that has existing capability to respond to, implement, and abate the threat to California from cross-border sources.

(c) The Secretary for Environmental Protection, on behalf of ~~Cal BECC, the council~~, shall accept donations of used equipment, including computers, printers, and lab equipment, for distribution to governmental entities and community-based nonprofit environmental organizations located within the California-Baja California border region and postsecondary educational institutions located within Baja California and within the California-Baja California border region, if the donations can be shown to

1 contribute to the protection of the environment, public health, or  
2 natural resources of the California border region.

3 **SECTION 4.**

4 *SEC. 4.* Section 71103.6 is added to the Public Resources Code,  
5 to read:

6 71103.6. (a) ~~The California-Mexico Border Relations Council~~  
7 *council* shall establish the New River Water Quality, Public Health,  
8 and River Parkway Development Program to coordinate funding  
9 for, and the implementation of, the recommendations from the  
10 strategic plan developed pursuant to subdivision (c) of Section  
11 71103.5, and the projects identified ~~by the council~~ pursuant to  
12 Section 71102.

13 (b) A state agency that funds the activities of the program shall  
14 make all necessary efforts to integrate and align its contractual and  
15 administrative requirements for grants, loans, and other forms of  
16 financial support to meet the goals of the program.

17 **SEC. 2.**

18 *SEC. 5.* Section 7048 of the Water Code is amended to read:

19 7048. (a) The Legislature hereby finds and declares that the  
20 protection, restoration, and enhancement of urban creek channels  
21 provide potential benefits to the state by combining an effective  
22 and efficient means of flood damage reduction with the  
23 preservation and enhancement of natural environmental values.  
24 The Legislature further finds that urban creek protection,  
25 restoration, and enhancement are best undertaken by local agencies  
26 and organizations with assistance from the state. It is the intent of  
27 the Legislature, in enacting this section, to restore the ecological  
28 viability of creek environments located in predominantly urban  
29 areas, thereby enhancing aesthetic, recreational, and fish and  
30 wildlife values.

31 (b) (1) The director may establish a program of flood damage  
32 reduction and urban creek restoration known as the Urban Streams  
33 Restoration Program. The program shall consist of both of the  
34 following components:

35 (A) The development of the capability by the department to  
36 respond to requests from local agencies and organizations for  
37 planning and design assistance for efficient and effective urban  
38 creek protection, restoration, and enhancement.

39 (B) To the extent that funds are provided, a process for awarding  
40 competitive grants.

(2) For purposes of this section, urban creek protection, restoration, and enhancement include, but are not limited to, the maintenance of channel capacity, channel stabilization, vegetation management, the reduction of water quality impairments and nonpoint source water pollution, the establishment of parkways for public use that benefit flood control and water quality, and adaptive management to meet program objectives. Where appropriate, the protection, restoration, and enhancement shall utilize efficient, nonstructural low-maintenance flood protection techniques. The department shall utilize in this program its expertise in a variety of disciplines, including, but not limited to, soil bioengineering, hydrology, and plant ecology.

(3) (A) The department shall maintain a balance in allocating the money annually available for grants to small urban creek restoration projects and large urban stream restoration projects, allocating not less than 35 percent to both small and large projects. For purposes of this section, “small urban creek restoration projects” are projects for which total costs, including acquisition and restoration costs, are below one million dollars (\$1,000,000) and “large urban stream restoration projects” are projects for which total costs, including acquisition and restoration costs are one million dollars (\$1,000,000) or more.

(B) Notwithstanding subparagraph (A), if an insufficient number of qualified projects are available to fully meet the allocation requirement, the department may grant funds to any project that is otherwise qualified, in order to ensure that all available funds are used efficiently.

(c) In responding to requests for assistance, the department shall give priority to those projects that are being planned in conjunction with, or in lieu of, local flood control projects. The department may award grants and contracts to local agencies and organizations as provided for in the budget of the department. Participating local agencies and organizations shall follow procedures, plans, and practices that are acceptable to the department, and shall conform to guidelines established by the department that define the level of contribution and participation required by local agencies and organizations.

The department shall coordinate the program with the Department of Fish and Wildlife during the formulation of guidelines and project planning for urban creek protection,

1 restoration, and enhancement. The department shall also consult  
2 with the Department of Fish and Wildlife on project criteria which  
3 may include economic, environmental, and social benefits to be  
4 achieved.

5 (d) It is the intent of the Legislature that the duties and  
6 responsibilities of the department be identified as the Urban  
7 Streams Restoration Program and be carried out by an office or  
8 staff designated for this purpose. Information on how to obtain  
9 planning, design, and financial assistance should be readily  
10 accessible to the public.

11 (e) As used in this section, “urban creek” means a creek stream,  
12 or river that crosses built-up residential, commercial, or industrial  
13 property, or that crosses land where, in the near future, the land  
14 use will be residential, commercial, or industrial.

15 (f) For the purposes of this section, eligible activities include,  
16 but are not limited to, the maintenance of channel capacity and  
17 stabilization of the morphological equilibrium of a natural channel  
18 for purposes of flood damage reduction, erosion control, and bank  
19 stabilization which may include nonstructural as well as structural  
20 projects.

21 (g) The department may adopt regulations that define “adaptive  
22 management” for the purposes of the Urban Streams Restoration  
23 Program, and establish criteria to fund projects that include  
24 adaptive management activities.

25 (h) The department may amend or utilize existing regulations  
26 for approving competitive grants. The regulations may include,  
27 but are not limited to, an application process, grant approval  
28 criteria, and grantee’s reporting requirements. The department  
29 shall annually make available to the public, in a form that is readily  
30 accessible, information regarding the status of funds appropriated  
31 for these purposes and projects that received grants.

32 (i) In order to address the unique ecological, flood control, water  
33 quality, and hydrological conditions associated with urban creeks  
34 and watersheds on the California-Mexico border, the department  
35 shall consult with the California-Mexico Border Relations Council  
36 to establish criteria to fund projects that improve conditions for  
37 cross-border urban creeks.

38 ~~SEC. 3.—Section 79737.5 is added to the Water Code, to read:~~

39 ~~79737.5. In the development of any regulations or guidelines~~  
40 ~~for the expenditure of funds authorized pursuant to Section 79737,~~

1 the Department of Fish and Wildlife shall consult with the  
2 California-Mexico Border Relations Council to establish criteria  
3 for watershed restoration projects that address the unique  
4 ecological, water quality, habitat, and hydrological conditions  
5 associated with urban creeks and watersheds on the  
6 California-Mexico border.

7 *SEC. 6. Section 79717 is added to the Water Code, to read:*

8 *79717. In order to address the unique ecological, water quality,*  
9 *habitat, and hydrological conditions associated with urban creeks*  
10 *and watersheds on the California-Mexico border, responsible*  
11 *agencies shall consult with the California-Mexico Border Relations*  
12 *Council when developing regulations or guidelines for the*  
13 *expenditure of funds pursuant to this division for, and establishing*  
14 *criteria for, watershed restoration projects in the border region.*